

IN THE DISTRICT COURT OF HOLT COUNTY, NEBRASKA

THE STATE OF NEBRASKA,
Plaintiff,

vs.

JAMES L. DAVIS,
Defendant.

Case No. CR03-12

JUDGMENT OF PROBATION

DATE OF SENTENCING: June 23, 2003.

APPEARANCES:

For plaintiff: Thomas P. Herzog, Holt County Attorney.
For defendant: Rodney W. Smith, Holt County Public Defender, with
defendant.

THIS CASE CAME ON FOR SENTENCING. The Court finds that the defendant was adjudged guilty of the charge(s) of Count No. 1: Burglary, a Class III felony, on April 21, 2003. Allocution had: defendant showed no sufficient reason why sentence should not be pronounced.

IT IS THEREFORE ORDERED AND ADJUDGED that the defendant is hereby sentenced to Probation for a period of three years from and after the commencement of probation under the supervision of a State Probation Officer. The term of probation shall be deemed to commence upon the first to occur of the following: (1) defendant's acceptance in writing of the conditions of probation, (2) the expiration of 30 days from the date of entry of this judgment if no appeal is taken, or, (3) the entry of judgment upon the mandate of the appellate court if appeal is timely perfected within 30 days after the date of entry of this judgment. As conditions of probation, the defendant shall:

1. Not violate any laws, and refrain from disorderly conduct or acts injurious to others.
2. Avoid social contact with those persons having criminal records or who are on probation or parole. Have no contact with Joshua L. Chavez or Erin E. Griess.

3. Report to your probation officer in person as required by the probation officer, at such reasonable times and places to be fixed by the probation officer. If the defendant is arrested or cited for any violation of law, report such arrest or citation to the probation officer by the next working day.
4. Truthfully answer questions and allow the probation officer to visit you at all reasonable times and places. Generally cooperate with the reasonable requests of the probation officer for information. Show ordinary business courtesy toward the probation officer.
5. Obtain and maintain suitable employment full-time employment (at least 35 hours per week), or provide adequate proof to the probation officer that the probationer is diligently seeking employment.
6. If required by the probation officer, such proof of search for employment shall include, at a minimum, registration with the Nebraska Job Service or equivalent in his state of residence, and weekly reports in writing of at least two (2) bona fide personal contacts with prospective employers listing: (a) the name of the prospective employer, (b) the name of the person contacted; (c) the date and time of the contact; (d) the position for which employment was sought; (e) the job description of such position or a list of the skills required therefor; and, (f) such additional reasonable information as the probation officer may require from time to time.
7. In the alternative to employment, the probationer may attend school in a suitable full-time program approved by the probation officer directed toward completion of specific program or attainment of a specific diploma or degree.
8. Obtain permission from this court or the probation officer before any change of address or employment.
9. Sign all necessary interstate compact forms and agree to abide by all interstate rules and regulations for transfer of administration to the State of Colorado.
10. Not have possession of any firearms, ammunition, or illegal weapons. Not be personally present with anyone who has possession of any firearms, ammunition, or illegal weapons.
11. Submit, from time to time, to any reasonable search and seizure of premises, person or vehicle, with or without probable cause, by or upon request of the probation officer or any law enforcement officer.
12. Concerning alcohol and drugs:
 - A. Not use or possess any alcoholic liquor or beverages.

- B. Not use or possess any controlled substance except when prescribed by a licensed physician.
 - C. Submit to the following tests and examinations:
 - (1) Roadside sobriety test;
 - (2) Alco-sensor test;
 - (3) Chemical test for alcohol or drug content of your blood, breath or urine; and/or,
 - (4) Tests to determine the loss of mental function or physical agility due to the use of alcohol or drugs.
 - (5) Such tests may be administered at any time and from time to time, with or without probable cause, upon request of the probation officer, or any law enforcement officer.
 - D. Pay to the clerk of the sentencing court \$180.00 (based upon \$5.00 per month) for chemical testing while on probation, to be paid in full by December 31, 2003. If additional testing is required by this judgment which is not included in the standard fee above, pay to the clerk of the sentencing court the actual cost of such testing as certified by the probation officer from time to time.
 - E. Obtain an evaluation by a qualified substance abuse facility approved by the probation officer within 60 days after commencement of probation.
 - F. If directed by the probation officer in writing at any time during the term of probation, initiate in-house substance abuse treatment at a facility approved by the probation officer within five days after being so directed, complete the required program, comply with any after-care requirements, and pay the costs of such treatment to the facility before being released from probation.
13. Pay for the costs of any tests, evaluations, treatments, counseling, programs, classes, courses, meetings, or exercises required under the terms of this judgment or as required by the probation officer as a part of the administration of the terms of probation.
14. The defendant is sentenced to 34 days, less 10 days credit for time served before sentencing, in the Holt County Jail, to be served on consecutive days commencing two years after date of sentencing, subject to the following:
- A. Upon request of the probation officer, the court may advance the date for service of the jail sentence at any time without further hearing.

- B. The jail sentence may be waived by the court upon the recommendation of the probation officer.
 - C. This portion of the sentence is subject to reduction under Neb. Rev. Stat. § 47-502. Assuming no good time for which defendant is eligible is lost, the defendant must serve 27 days, less 10 days credit for time served before sentencing, on the sentence before mandatory release.
 - D. Unless advanced or waived, commitment shall issue by the clerk at least 10 days prior to the scheduled commencement date, in form to be submitted by the county attorney, for execution of sentence by the sheriff. If advanced or waived, the clerk shall issue commitment as directed by such order. If advanced, the clerk shall mail a copy of the order advancing sentence to the defendant's last known address by regular mail.
 - E. Unless the sentence is waived, the defendant shall appear and surrender to the Holt County Sheriff at the time required by this judgment or by the order advancing date of sentence. Failure to appear and surrender shall constitute a violation of probation, with such consequences as may be imposed by law, and may further result in a separate prosecution for the crime of Failure to Appear, with a separate and additional penalty, and may also result in the issuance of a bench warrant.
- 15. Pay to the clerk of the sentencing court the amount of \$100.00, representing partial reimbursement of the cost of imprisonment for 10 days in the Holt County Jail at \$10.00 per day, for disbursement to Holt County, to be paid in full by December 31, June 30, 2004.
 - 16. The defendant shall apologize in writing to the Owner of the White's Service, the victim of the crime, or other designated representative of the victim approved by the probation officer, within 30 days after the commencement of probation; and the defendant shall provide written verification to the probation officer within 10 days thereafter that the apology has been accomplished.
 - 17. The defendant shall pay to the clerk of the sentencing court, for disbursement to White's Service, the victim of the crime, restitution in the amount of \$550.87, to be paid by December 31, 2003. The defendant shall receive a credit against such amount, up to a maximum credit of 66.67% of the total, for amounts paid for such restitution by any other person determined to be similarly responsible for such damage.
 - 18. Pay to the clerk of the sentencing court the costs of prosecution taxed in the amount of \$_____, to be paid by December 31, 2003.

19. Pay to the clerk of the sentencing court, for disbursement to Holt County for partial reimbursement of the cost of defense counsel, the sum of \$500.00, to be paid December 31, 2004.
20. For a period of 18 months from the commencement of probation, the defendant shall maintain a curfew and shall not be present outside of the defendant's home and its curtilage between the hours of 11:00 PM and 5:00 AM, except for emergencies, work-related activities approved in advance in writing by the probation officer, or other special family, church, or community activities approved in advance in writing by the probation officer.
21. Obtain a GED certificate of completion and furnish appropriate written verification of such attainment to the probation officer within one year from commencement of probation.

IT IS FURTHER ORDERED AND ADJUDGED that during the term of this probation, the Court, upon application of the probation officer or the defendant, or upon its own motion, may modify or eliminate any of the above conditions or add further conditions.

BY THE COURT:

William B. Cassel, District Judge

I hereby accept probation and agree to abide by all the conditions of probation ordered by the court. Any violation of the above conditions is cause for revocation of my probation and may result in a sentence to confinement and/or other authorized punishment. I do hereby waive extradition to the State of Nebraska if, at the time of my apprehension, I am in another state. If probation supervision is transferred to another state, I do hereby agree to abide by additional rules and regulations that may be imposed by the receiving state.

I received a copy of the above judgment on _____, 2003.

Defendant